IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

WP(C).No. 20789 of 2007(Y)

PETITIONER:

MRS.P.D.JAYA, W/O.P.K.RAVEENDRAN,
MEDICAL RECORD LIBRARIAN GRADE II, TRICHUR
MEDICAL COLLEGE, TRICHUR-686 001.

BY ADV. SRI.PREMJIT NAGENDRAN

RESPONDENTS:

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1. THE DIRECTOR OF MEDICAL EDUCATION,
KERALA STATE, THIRUVANANTHAPURAM- 695 011.

2. THE STATE OF KERALA REPRESENTED BY
THE SECRETARY TO GOVERNMENT, HEALTH AND FAMILY
WELFARE DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

BY GOVERNMENT PLEADER SRI. T.T. MAHMOOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C)NO.20789/07

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE ORDER NO.E4/4520/88/DME, DATED 04.08.1992 ISSUED BY DIRECTOR OF MEDICAL EDUCATION, THIRUVANANTHAPURAM.

EXT.P2: TRUE COPY OF THE ORDER NO.E3/21738/95/DME DATED 27.02.1997 ISSUED BY THE ADMINISTRATIVE OFFICER, TRIVANDRUM.

EXT.P3: TRUE COPY OF THE JUDGMENT IN O.P.NO.29744/2000-N DATED 28.06.2002 ISSUED BY THIS HONOURABLE HIGH COURT.

EXT.P4: TRUE COPY OF THE JUDGMENT IN W.A.NO.2328/2002 DATED 05.09.2005 ISSUED BY THIS HONOURABLE HIGH COURT.

EXT.P5: TRUE COPY OF THE ORDER NO.E2/10616/2006/DME DATED 26.5.2007 ISSUED BY SENIOR ADMINISTRATIVE OFFICER, TRIVANDRUM.

EXT.P6: TRUE COPY OF THE ORDER NO.E2/10616/2006/DME DATED 30.04.2007 ISSUED BY THE DIRECTOR, MEDICAL EDUCATION, TRIVANDRUM.

EXT.P7: TRUE COPY OF THE ORDER NO.G.O.MS.NO.63/84/HD DATED 09.03.1984 ISSUED BY THE SECOND RESPONDENT.

EXT.P8: TRUE COPY OF THE JUDGMENT IN W.P.(C)NO.16380/2007-Y DATED 13.06.2007 ISSUED BY THIS HONOURABLE HIGH COURT.

EXT.P9: TRUE COPY OF THE JUDGMENT/ORDER IN R.P.NO.575/2007(Y) DATED 21.06.2007 ISSUED BY THIS HONOURABLE HIGH COURT.

EXT.P10: TRUE COPY OF THE ORDER NO.G.O.(RT)NO.2250/2007/H& FWD DATED 23.06.2007 ISSUED BY THE SECOND RESPONDENT.

EXT.P11: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE FIRST RESPONDENT DTED 26TH JUNE 2007.

TRUE COPY

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)NO. 20789 OF 2007

DATED THIS THE 10th DAY OF SEPTEMBER, 2007

JUDGMENT

The petitioner is a physically handicapped person who was working as Medical Record Librarian Grade II in Trichur Medical College, who has been promoted as Grade I subsequent to filing of this writ petition. The issue involved in this writ petition relates to seniority of the petitioner vis-a-vis other persons in the same cadre. The petitioner submits that although earlier there was dispute regarding seniority, by Ext.P6 the petitioner's seniority has been duly recognised by placing her as the 1st in Ext.P6 list. The petitioner therefore seeks consideration of the petitioner's claim for promotion. The petitioner's contention is that a person, who was junior to the petitioner has been promoted under Rule 31(a)(i) of the Kerala State Subordinates Service Rules in preference to the petitioner which was irregular. The petitioner submits that the said person has since retired and therefore the petitioner has filed Ext.P11 representation seeking promotion. The petitioner seeks a direction to the 1st respondent to consider Ext.P11 representation expeditiously.

2. I have heard the learned Government pleader also. The

learned Government pleader submits that it is pursuant to Ext.P8 judgment filed by a person who was actually promoted, that Ext.P10 Government order has been passed and therefore now the same can be reconsidered only by the Government, which is what the petitioner now seeks effectively.

3. I have heard both sides. Since the seniority position has now been settled by Ext.P6, the eligibility of the petitioner for promotion has to be decided afresh. In the above circumstances, the writ petition is disposed of with the following directions.

The 1st respondent shall forward Ext.P11 representation filed by the petitioner to the 2nd respondent Government of Kerala within two weeks from the date of receipt of a copy of this judgment. The 2nd respondent shall consider the same in the light of Ext.P6 seniority list and pass appropriate orders, if necessary by reconsidering Ext.P10 in accordance with Ext.P6 and pass appropriate orders thereon as expeditiously as possible, at any rate, within one month from the date of receipt of Ext.P11 representation from the 1st respondent. If no regular promotion can be made because of pendency of any other claim by any other person, the 2nd respondent shall consider the petitioner's claim for provisional promotion under Rule 31(a)(i) in accordance with Ext.P6 seniority list.

S. SIRI JAGAN, JUDGE

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